

law as requiring him to be an aggressive advocate for all types of on-reservation gaming, he was less supportive of off-reservation gaming because of the ill will such operations generated in communities that were opposed to them. Although there do not appear to be any formal public announcements by Babbitt of a policy incorporating this distinction, there are news reports of the Arizona compact controversy. These attribute to the Secretary some general statements very supportive of all types of gaming on Indian reservations, though in at least one statement he suggested that he might apply a different standard to off-reservation gaming.

But Interior's decisions on other applications before and during Secretary Babbitt's tenure do not appear to be consistent with this policy of not imposing casinos on objecting communities. For example, in 1992, Secretary Lujan approved the application of the Siletz Indians of Oregon, notwithstanding local community opposition.<sup>402</sup> Likewise, in May 1995, the Department announced that it would take land into trust for the Mashantucket Pequots adjacent to their Foxwoods casino to be used, in part, as a parking lot. That application was approved despite substantial local opposition.<sup>403</sup> More recently, in August 1997, the Department approved an

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<sup>402</sup>Documents produced by DOI indicate that there was local Indian and non-Indian community opposition to the Siletz application. Nonetheless, the Department concluded that the Indian opposition was factually inaccurate as to a claim that the site was another tribe's aboriginal land and without factual basis as to fear of competition with an existing bingo enterprise. The Department further concluded that the non-Indian local opposition, based on claims of inadequate roads and increasing crime levels, lacked factual basis and reflected moral opposition to gaming which was an insufficient basis for detriment under Section 20(b)(1)(A). Despite this analysis, the Governor vetoed the application. At least one DOI lawyer who worked on that application said that the lesson learned in the Siletz case was that if the state politicians are not supportive, it is fruitless for DOI to try to push the application through.

<sup>403</sup>The Department did not treat the Pequot application as an off-reservation gaming acquisition, under the provision of Section 20(b)(1)(A) that requires a finding of "no detriment" and "best interest of the tribe," even though the Checklist then in force specifically identified an  
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